IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

HON'BLE SMT JUSTICE T.MEENA KUMARI

and
HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1066 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 16/07/2004 in WP NO : 17336 OF 1992 on the file of the High Court.)

Between:

1 The Union of India, Rep. by its Secretary for Railways, New Delhi.
2 The General Manager, South Central Railways, Secunderabad.
3 The Divisional Engineer, Construction - II, S.C. Railways, Secunderabad.

..... APPELLANTS

AND

1 Sri Subhash Neemkar, S/o. Sharfaji Rao,
R/o. Fateh Nagar, Balanagar (M), Ranga Reddy District.
2 The State of Andhra Pradesh, Rep. by Chief Secretary, Government of Andhra Pradesh, Secretariat Buildings, Saifabad, Hyderabad.
3 The Secretary to Government, Revenue Department, Government of

Andhra Pradesh, Secretariat, Hyderabad.
4 Special Deputy Collector, Land Acquisition (General),

Office of District Collector, Hyderabad.

.....RESPONDENTS

Counsel for the Appellants: MR.GOURI SHANKAR SANGHI

Counsel for the Respondent No1.: None present.

Counsel for the Respondents 2 to 4 : GP for LAND ACQUISITION(Not present)

The Court made the following :

JUDGMENT (per Hon'ble Smt Justice T Meena Kumari) :

The respondents 4 to 6 in the writ petition, being aggrieved by the order of a learned single Judge dated 16-07-2004 in W.P.No. 17336 of 1992, directing them to share the costs of Rs.10,000/- equally along with Revenue in the writ petition, have preferred the present writ appeal.

The 1st respondent herein filed the above writ petition seeking a direction that the action of the respondents in not finalizing the acquisition proceedings and passing the award in determination of the market value for the land acquired in Sy.Nos. 40, 43, 44, 45/P, 139 and 140 situated at Fatehnagar, Balanagar (M) Rangareddy District and paying the compensation to the petitioner as bad and for issuance of necessary directions. The Railways contested the same by filing a detailed counter. Learned single Judge after going into merits of the case, observed that the land was taken over forcibly by Indian Railways on 18.2.1987 without any acquisition proceedings for the purpose of doubling the Railway line from Hyderabad to Telapur and a Notification under Section 4(1) of the Land Acquisition Act was issued for the first time on 19-4-2004 at the intervention of the Court and the award has been passed on 15-7-2004. Learned single Judge while observing that depriving a person of his properties and not paying him compensation for almost two Decades is a criminal act, disposed of the writ petition by imposing a costs of Rs.10,000/- to be shared equally by respondents Railways and the Revenue. Aggrieved by the said order, the Railways filed the present appeal.

Learned Standing Counsel appearing behalf of Railways submits that even prior to the acquisition proceedings, as per the request of the State Government, the Railways already deposited a sum of Rs. 70,23,293-50 on various dates during

1987_'88 and thereafter two awards have been passed by the 3rd respondent for the total sum of 45,68,571-00 and still a sum of Rs.24,54,722-50 is lying in excess with the 3rd respondent State Government and hence there is no negligence on the part of the railways. Learned Counsel further submits that since excess amount is still lying with the State Government, as the Railways have deposited the necessary amounts even prior to the commencement of acquisition proceedings and that the Railways is diligent in requesting the 3rd respondent to act in accordance with the provisions of the Land Acquisition Act to pass the awards, they are not responsible for the delay caused in passing the awards and prays to set aside the order to share the costs insofar as against the Railways.

Heard the counsel for the appellants.

We have perused the material available on record including order under challenge. In view of the submissions made and also the specific averments at paragraphs 5 & 7 of the counter affidavit filed in the writ petition, it is evident that the appellant Railways have deposited the amount as requested by the State Government to meet the awards to be passed and still excess amount is lying with the State Government, we are inclined to set aside the order of learned single Judge to the extent of imposing proportionate costs as against the appellants-Railways herein only.

The writ appeal is allowed accordingly. No costs.

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T. MEENA KUMARI, J

Dt. 12/07/2005

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P. LAKSHMANA REDDY, J

Kvrk

To

1. The Secretary for Railways, Union of India, New Delhi.

2. The General Manager, South Central Railways, Secunderabad.

3. The Divisional Engineer, Construction - II, S.C. Railways,
   Secunderabad.

4. The Chief Secretary, State of Andhra Pradesh, Government of Andhra Pradesh, Secretariat Buildings, Saifabad, Hyderabad.

5 The Secretary to Government, Revenue Department, Government of

Andhra Pradesh, Secretariat, Hyderabad.

6 Special Deputy Collector, Land Acquisition (General),

Office of District Collector, Hyderabad.

7. Two CCs to GP for Land Acquisition, High Court Buildings,

Hyderabad (OUT)

5. Two CD copies.

*Form-NIC-OGS/WA {**SPJS**}*

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and

THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

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WRIT APPEAL NO : 1066 of 2005

(Judgment of the Division Bench delivered by

Hon'ble Smt Justice T Meena Kumari)

11th JULY 2005